

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE ALTA MESA RESOURCES, INC.
SECURITIES LITIGATION

Case No. 4:19-cv-00957

Judge George C. Hanks, Jr.

PUBLIC

**APPENDIX TO DEFENDANTS' REPLY IN SUPPORT OF MOTION TO
EXCLUDE CLASS PLAINTIFFS' ACCOUNTING EXPERT
D. PAUL REGAN UNDER RULE 702**

In accordance with Court Procedure 7(B)(3), Moving Defendants submit this Appendix in support of their Reply in Support of Motion to Exclude Class Plaintiffs' Accounting Expert D. Paul Regan Under Rule 702, which is filed concurrently herewith. Moving Defendants rely on the following evidence to support their motion:

Ex. No.	Description
17	July 26, 2017 Email from M. Christopher to J. Hostettler (ARMEnergy_00055517- ARMEnergy_00055524) (Filed Under Seal)
18	July 17, 2017 Email from M. Christopher to R. Schneider (ARMEnergy_00135683) (Filed Under Seal)
19	July 17, 2017 Email from M. Christopher to R. Schneider (ARMEnergy_00113243) (Filed Under Seal)
20	Excerpts of the Deposition of D. Paul Regan taken November 2, 2023

Dated: February 2, 2024

Respectfully submitted,

By /s/ J. Christian Word

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CERTIFICATE OF SERVICE

I certify that on February 2, 2024, a true and correct copy of the foregoing document was filed with the Clerk of Court using the CM/ECF system, which will send electronic notification of such filing to all counsel of record.

/s/ J. Christian Word

J. Christian Word

EXHIBIT 17
FILED UNDER SEAL

**EXHIBIT 18
FILED UNDER SEAL**

EXHIBIT 19
FILED UNDER SEAL

EXHIBIT 20

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE: ALTA MESA

RESOURCES, INC., Case No.: 4:19-cv-00957

SECURITIES LITIGATION

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Video-recorded deposition of D. PAUL REGAN, at Latham & Watkins, LLP, 505 Montgomery Street, Suite 2000, San Francisco, California, commencing at 9:29 a.m. PDT, Thursday, November 2, 2023, before Lorrie L. Marchant, California CSR No. 10523.

Stenographically reported by:

LORRIE L. MARCHANT, RMR, CRR, CCRR, CRC

California CSR No. 10523

Washington CSR No. 3318

Oregon CSR No. 19-0458

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<p>1 APPEARANCES 2 3 ON BEHALF OF ALTA MESA RESOURCES, INC., HARLAN H. 4 CHAPPELLE, JAMES T. HACKETT, THOMAS J. WALKER, 5 WILLIAM D. GUTERMUTH, JEFFREY H. TEPPER, DIANNA J. 6 WALTERS, RIVERSTONE INVESTMENT GROUP LLC, STEPHEN 7 COATS, MICHAEL E. ELLIS, PIERRE F. LAPEYRE, DAVID M. 8 LEUSCHEN, DONALD SINCLAIR, RONALD SMITH: 9 LATHAM & WATKINS, LLP 10 BY: HEATHER WALLER, ESQ. 11 330 North Wabash Avenue, Suite 2800 12 Chicago, IL 60611 13 (312) 876-6554 14 heather.waller@lw.com 15 BY: HENRY ZAYTOUN, ESQ. (via Zoom) 16 STEPHEN NASKO, ESQ. (via Zoom) 17 555 11th St NW 18 Washington, DC 20004 19 (202) 637-2200 20 henry.zaytoun@lw.com 21 stephen.nasko@lw.com 22 23 24 25 (Continued)</p>	<p>Page 3</p> <p>1 INDEX 2 INDEX OF EXAMINATION 3 EXAMINATION BY PAGE 4 Ms. Waller 9 5 Mr. Pollet 210 6 Mr. Schochet 213 7 Ms. Waller 227 8 Mr. Schochet 252 9 Ms. Waller 254 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

<p>1 BY MS. WALLER:</p> <p>2 Q. And how does your experience or 3 expertise -- how does your experience as an 4 accountant assist in your review of those documents?</p> <p>5 A. Well, if we look, for example, at 6 paragraph 60 of Exhibit 47, the -- and my experience 7 when I -- when I see the document, from which we 8 prepared the chart in paragraph 60, it's prepared 9 from the PowerPoint slide in paragraph 59.</p> <p>10 And my experience, you know, when I -- I 11 look at that header, I see that it's "Alta Mesa Oil 12 UER, comma -- paren, MBO."</p> <p>13 So this is a measure of the estimated 14 economic ultimate recovery in -- measured in 15 millions of barrels of oil.</p> <p>16 You know, I've seen charts like this in not 17 just this case but in other cases that I have worked 18 on. And I know that this is a data point. It 19 happens to show data points of various parent wells 20 and infill wells, which are child wells.</p> <p>21 So I have that background to realize that 22 this is an important chart.</p> <p>23 What I did with respect to that chart, I 24 thought given when the -- the erroneous use and 25 expectation in the projections that child wells will</p>	<p>Page 58</p> <p>1 existence in August of 2017. And it continued to be 2 made in the -- in the proxy statements in February 3 of 2018.</p> <p>4 And there's a -- a lot of other -- a number 5 of other documents that are referred to in footnotes 6 and the text that follow, including the expert 7 reports that were prepared by plaintiffs' expert, 8 which are consistent with -- with that determination 9 that this was an oversight or misuse of information 10 that was in place at the time.</p> <p>11 Q. You rely on plaintiffs' other experts for 12 purposes of your opinion; is that fair?</p> <p>13 MR. SCHOCHET: Objection. Misstates his 14 testimony.</p> <p>15 THE WITNESS: I've noted that the 16 plaintiffs' other experts have provided expert 17 reports which are consistent with my -- my 18 determination and my report where I indicate that 19 the assumption of performance of -- of child wells 20 will be consistent with parent wells, and the 21 production should approximate 250 MBO.</p> <p>22 BY MS. WALLER:</p> <p>23 Q. Are you offering an opinion in this case as 24 to whether the assumption of 250 MBO was appropriate 25 or not, that particular assumption?</p>
<p>Page 59</p> <p>1 perform similar to parent wells, what I wanted to do 2 was to see, well, what was the EUR/MBO of child 3 wells in comparison to 250 MBO.</p> <p>4 And I drew the red vertical line that 5 appears in paragraph 60 because that is 6 approximately in the middle of 2017. And I know in 7 the 10-K, Alta Mesa said that it takes 90 to 8 120 days to enable an estimate of the EUR of 9 particular wells. So that vertical line is a line I 10 added to the chart.</p> <p>11 And what I'm seeing is 17 -- I think it's 12 17 wells, most of which -- of child wells that are 13 to the left of the vertical line, and most of which 14 perform significantly below the 250 MBOE.</p> <p>15 So my background as an accountant in 16 looking at this chart tells me that an assumption 17 which is done in August of 2017 that assumes child 18 wells will perform the same as parent wells, that 19 the -- the data that is in place at that time is in 20 significant contradiction to that assumption.</p> <p>21 And that together with a -- several other 22 documents that indicate that an assuming -- an EUR 23 with respect to child wells, it would be the same as 24 the parents and that they should average 250 MBO, 25 that that's a mistake or an oversight that is in</p>	<p>Page 61</p> <p>1 MR. SCHOCHET: Objection.</p> <p>2 THE WITNESS: What I say -- 3 (Simultaneous speakers - unclear.) 4 (Stenographer interrupted for clarification 5 of the record.)</p> <p>6 MR. SCHOCHET: Misstates his testimony.</p> <p>7 MS. WALLER: I'm not characterizing his 8 testimony. I'm asking what his opinion is.</p> <p>9 THE WITNESS: What I'm -- what I'm saying 10 is that the projections which were made and were 11 represented as being the best information and the 12 most reasonable information for Alta Mesa to use in 13 those projections when estimating -- projecting 14 EBITDA, for example, that they did not represent the 15 best information available or the most reasonable 16 information available.</p> <p>17 And, in fact, that there were documents, 18 credible documents, which contradict that assumption 19 and indicate that that assumption overlooked or 20 misused relevant information in August of 2017 and 21 in February of 2018.</p> <p>22 BY MS. WALLER:</p> <p>23 Q. You don't actually have experience, though, 24 analyzing well results; is that right?</p> <p>25 A. Well, I've certainly looked at a lot of</p>

<p style="text-align: right;">Page 106</p> <p>1 Q. And did you do any calculations to perform 2 that back testing to say what AMH's history with 3 respect to its projections versus performance were?</p> <p>4 A. I think there's a number of -- of 5 paragraphs that I cite in my report where AMH and 6 KFM had projected EBITDA by quarter in 2017 and in 7 2018. And they have a consistent record of failing 8 miserably to achieve their projections. And they 9 not only don't achieve them, they tend to miss them 10 by considerable margin.</p> <p>11 And that was recognized by folks at 12 Riverstone as well as within Alta Mesa.</p> <p>13 Q. What paragraph specifically are you looking 14 at in your report?</p> <p>15 A. Well, let's see. There would be some 16 examples.</p> <p>17 Q. Is there a specific paragraph you were 18 looking at when you were answering my question?</p> <p>19 A. That there are a number of comments -- 20 there are many.</p> <p>21 If you look at paragraph 90, you know, 22 there's a discussion of Q2 2017, KFM's EBITDA 23 totaled 6.7 million. That's approximately half of 24 the 12.1 million projected.</p> <p>25 In the paragraph 95, in Q3 2017, KFM's</p>	<p style="text-align: right;">Page 108</p> <p>1 performed analyzing past projections versus actual 2 achievement?</p> <p>3 A. Well, these paragraphs contain evidence of 4 what the projection was comparing to what was 5 achieved.</p> <p>6 Now, for example, in 104, I say KFM 7 disclosed EBITDA of 22 million. It was 8 approximately 50 percent of the projection in the 9 business proxies. You know, that 50 percent is 10 probably my calculation of the shortfall.</p> <p>11 There's, you know, repeated calculations 12 where I compare the -- the projections in EBITDA 13 and/or repeated calculations where I compare the 14 actual performance of the produced volume of oil and 15 gas compared to the 250 -- 250 MBOE. And we see 16 that there was a significant shortfall. And I 17 calculate that significant shortfall.</p> <p>18 Q. How much weight did you give the prior 19 projections in your opinion that the projections in 20 the proxy were not the best currently available 21 estimates?</p> <p>22 A. Can I hear that again? I'm sorry. Ira was 23 coughing, so I didn't hear --</p> <p>24 MR. SCHOCHET: I apologize.</p> <p>25 ///</p>
<p style="text-align: right;">Page 107</p> <p>1 year-to-date total was 16.9. There was a 21 percent 2 shortfall.</p> <p>3 Q. Did you do any of your own calculations on 4 AMH or KFM's prior projections versus what they 5 actually achieved?</p> <p>6 MR. SCHOCHET: Just before he answers that, 7 do you want him to give more examples before he 8 answers that question now?</p> <p>9 MS. WALLER: If he has any other examples 10 that he can point me to, but I don't really want to 11 spend another five minutes with him flipping through 12 the report. So ...</p> <p>13 MR. SCHOCHET: Okay. Just want to make 14 sure.</p> <p>15 THE WITNESS: Well, in paragraph 97, 16 there's a discussion of how the projected EBITDA was 17 significantly short of what was -- the actual is 18 significantly short of what was projected.</p> <p>19 In 99, there's a discussion by Mr. Dunne 20 that the existing view was that the result would be 21 less than the public guidance.</p> <p>22 Paragraph 100, again, there's criticism of 23 the projections.</p> <p>24 BY MS. WALLER:</p> <p>25 Q. Can you point me to calculations that you</p>	<p style="text-align: right;">Page 109</p> <p>1 BY MS. WALLER:</p> <p>2 Q. How much weight did you give the fact 3 that -- or did you give your assertion here that AMH 4 had a history of underperforming its projections?</p> <p>5 How much weight did you give that in your 6 assessment?</p> <p>7 A. I haven't tried to put that into a formula. 8 That is one of the factors that I considered.</p> <p>9 And then when I looked to what's the bases 10 that AM -- that Alta Mesa had for estimating 250 11 MBOE, you know, including that the child wells would 12 perform as well as parent and that -- an estimate 13 that it had three benches, for example, I see -- I 14 don't see a reasonable bases for them making those 15 assumptions. In fact, they appear to be 16 contradicted by the actual experience that was in 17 place at that time.</p> <p>18 That together with they continually project 19 EBITDA, they continually project production in terms 20 of oil and gas volumes, they fail to make -- to 21 achieve those projections.</p> <p>22 KFM projects that it's going to get new 23 customers. It doesn't get those new customers. In 24 fact, it loses customers.</p> <p>25 And when KPMG assesses the skill set and</p>

<p style="text-align: right;">Page 110</p> <p>1 capabilities of these people to do these kinds of 2 tasks, KPMG indicates that these folks are not 3 equipped with the skill set to do it. In fact, 4 Alta Mesa agrees with that, and a lot of folks are 5 terminated and a lot of folks are hired in order to 6 recover and mitigate that material weakness. 7 So all of that combination tells me that 8 these were not reasonable assumptions. And they 9 certainly didn't represent the best available 10 information.</p> <p>11 Q. How does KPMG's assessment in -- that was 12 done in late 2018; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. How does that factor into your opinion with 15 respect to the projections that were developed by 16 AMH and KFM in mid-2017?</p> <p>17 A. Well, if you look at paragraph 214, you've 18 got Mr. Smith saying (as read):</p> <p>19 "The common denominator, I'll call 20 it, that relates -- goes back to all of 21 these material weaknesses that were 22 identified was due to the business 23 combination that had occurred." 24 215 says (as read): 25 "At the time of the business</p>	<p style="text-align: right;">Page 112</p> <p>1 combination.</p> <p>2 Q. So let's take Mr. Smith statement that 3 you're pointing to in 214. You characterize his 4 testimony, that (as read):</p> <p>5 "Mr. Smith" -- this is from your 6 report -- "similarly traced the material 7 weaknesses to the time of the business 8 combination."</p> <p>9 If Mr. Smith disagrees with your 10 characterization of his testimony, does that change 11 your opinion?</p> <p>12 A. Well, it's testimony that he -- he stated. 13 And it is a statement which is consistent with a 14 KPMG assessment. It's consistent with, you know, 15 the -- the documents that I cite in Footnote 415, 16 consistent with 418. It's consistent with 419.</p> <p>17 MR. SCHOCHET: Footnotes you mean?</p> <p>18 THE WITNESS: Footnote -- yeah, footnotes.</p> <p>19 BY MS. WALLER:</p> <p>20 Q. Is it --</p> <p>21 A. 420.</p> <p>22 Q. Is it your opinion that because --</p> <p>23 A. There are several others that follow, but 24 I -- I probably have named enough.</p> <p>25 Q. So is the answer, no, it doesn't change</p>
<p style="text-align: right;">Page 111</p> <p>1 combination, management recognized the 2 need to hire additional resources to 3 supplement existing personnel within 4 property accounting to ensure the 5 department's resources were aligned with 6 the size and complexity of the company's 7 post-business combination." 8 Now, KPMG makes an assessment in -- after 9 July of 2018, but this is -- these are comments 10 about what management knew was in place at the time. 11 And if we look at Footnote 415, you've got 12 a Riverstone e-mail to Mr. Hackett that says 13 (as read):</p> <p>14 "We don't have high confidence in 15 AM/KFM's reporting fidelity or 16 frequency."</p> <p>17 Footnote 418 (as read):</p> <p>18 "In short, the management team of 19 Alta Mesa was unqualified for the 20 increase in industrial activity on the 21 Alta Mesa position."</p> <p>22 That increase that they're talking about is 23 the business combination which occurred in February 24 of 2018. That mirrors the comments of KPMG made 25 later, but it is -- it is as of the business</p>	<p style="text-align: right;">Page 113</p> <p>1 your opinion?</p> <p>2 A. No, for the -- his testimony that I'm 3 reading is consistent with KPMG's considered 4 assessment in the finding that there were material 5 weaknesses for the same reason that Mr. Smith is 6 testifying to, as indicated in my paragraph 214.</p> <p>7 And I know that auditors do not state that 8 something is a material weakness lightly. It's a 9 very sobering and careful determination.</p> <p>10 Q. Is it --</p> <p>11 A. And the company eventually tried to 12 mitigate these weaknesses by hiring appropriately 13 skilled personnel, but it had occurred much later.</p> <p>14 Q. Is it your opinion that because Mr. Smith 15 stated that some of the material weaknesses related 16 to effects of the business combination, that meant 17 that the material weakness existed at the time of 18 the business combination?</p> <p>19 MR. SCHOCHET: Objection to form.</p> <p>20 THE WITNESS: Well, I think when he makes 21 that statement, given the context in which he makes 22 that statement, in particular, in relation to the 23 other documents that I cite, I think that's a 24 reasonable interpretation, yes.</p> <p>25 ///</p>

<p style="text-align: right;">Page 258</p> <p>1 THE STENOGRAPHER: And regular delivery of 2 the final or any expedite? 3 MR. SCHOCHET: If you could expedite it, 4 I'd appreciate it. 5 THE STENOGRAPHER: On a three-day expedite, 6 the same as Latham & Watkins? 7 MR. SCHOCHET: That's fine, yes. 8 (Deposition concluded at 7:23 p.m. PDT.) 9 ---oo---</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 260</p> <p>1 Veritext Legal Solutions 1100 Superior Ave Suite 1820 Cleveland, Ohio 44114 Phone: 216-523-1313 4 5 November 7, 2023 6 To: Ira A. Schocet, Esq. 7 Case Name: Alta Mesa Resources, Inc. Securities Litigation v. 8 Veritext Reference Number: 6290725 9 Witness: D. Paul Regan Deposition Date: 11/2/2023 10 Dear Sir/Madam: 11 Enclosed please find a deposition transcript. Please have the witness 12 review the transcript and note any changes or corrections on the 13 included errata sheet, indicating the page, line number, change, and 14 the reason for the change. Have the witness' signature notarized and 15 forward the completed page(s) back to us at the Production address 16 shown 17 above, or email to production-midwest@veritext.com. 18 If the errata is not returned within thirty days of your receipt of 19 this letter, the reading and signing will be deemed waived. 20 Sincerely, 21 Production Department 22 23 24 25 NO NOTARY REQUIRED IN CA</p>
<p style="text-align: right;">Page 259</p> <p>1 STENOGRAPHER'S CERTIFICATE 2 3 I, LORRIE L. MARCHANT, a Certified 4 Shorthand Reporter, holding a valid and current 5 license issued by the State of California, CSR No. 6 10523, duly authorized to administer oaths, do 7 hereby certify: 8 That the witness in the foregoing 9 deposition was administered an oath to testify to 10 the whole truth in the within-entitled cause. 11 That said deposition was taken down by me 12 in shorthand at the time and place therein stated 13 and thereafter transcribed into typewriting, by 14 computer, under my direction and supervision to the 15 best of my ability. 16 Should the signature of the witness not be 17 affixed to the deposition, the witness shall not 18 have availed himself/herself of the opportunity to 19 sign or the signature has been waived. 20 I further certify that I am neither 21 counsel for nor related to any party in the 22 foregoing deposition and caption named nor in any 23 way interested in the outcome thereof. 24 25 THE DISMANTLING, UNSEALING, OR UNBINDING 14 OF THE ORIGINAL TRANSCRIPT WILL RENDER THE 15 REPORTER'S CERTIFICATE NULL AND VOID. 16 17 In WITNESS WHEREOF, I have hereunto set my 18 hand this November 6, 2023. 19 20  21 22 LORRIE L. MARCHANT, RMR, CRR, CCRR, CRC 23 California CSR No. 10523 24 Washington CSR No. 3318 25 Oregon CSR No. 19-0458 26 Texas CSR No. 11318</p>	<p style="text-align: right;">Page 261</p> <p>1 DEPOSITION REVIEW CERTIFICATION OF WITNESS 2 3 ASSIGNMENT REFERENCE NO: 6290725 4 CASE NAME: Alta Mesa Resources, Inc. Securities Litigation v. 5 DATE OF DEPOSITION: 11/2/2023 6 WITNESS' NAME: D. Paul Regan 7 In accordance with the Rules of Civil 8 Procedure, I have read the entire transcript of 9 my testimony or it has been read to me. 10 I have made no changes to the testimony 11 as transcribed by the court reporter. 12 13 Date D. Paul Regan 14 Sworn to and subscribed before me, a 15 Notary Public in and for the State and County, 16 the referenced witness did personally appear 17 and acknowledge that: 18 They have read the transcript; 19 They signed the foregoing Sworn 20 Statement; and 21 Their execution of this Statement is of 22 their free act and deed. 23 24 I have affixed my name and official seal 25 this _____ day of _____, 20____. 26 27 28 Notary Public 29 30 Commission Expiration Date</p>

66 (Pages 258 - 261)

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